Service Tax

S. no.	Issue	Justification
1.	Trading of goods - Not a service still, it is in negative list of Services • Trading of goods covered under clause (e) of negative list of services though the same is not service at all. • This could lead to interpretational issues in future.	• Definition of service as provided under section 65B (44) excludes 'an activity which constitutes merely a transfer of title in goods or immovable property, by way of sale, gift or in any other manner'. • By virtue of the said exclusion pure sale of goods and immovable property gets excluded from the very definition of service and cannot be termed as service. • Negative list of services should be amended so as to exclude/ remove trading of goods.
2.	Levy of service tax on damages, fines and penalties As per the service tax provisions, "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act" is covered under declared service categories and subject to service tax. Based on the above, authorities are demanding service tax on liquidation damages, fines and penalties recovered on the commercial transactions due to various reasons listed in the commercial arrangements.	• These penal charges are not a consideration for activity carried out by one for another. These are actually compensatory in nature for not adhering with certain terms and conditions of the commercial arrangements. • Suggest that necessary clarification should be issued as to non-levy of service tax on such charges.
3.	Applicability of abated service tax on miscellaneous charges like date change, re-issue fee, upgrade fee, cancellation charges etc. collected by Airlines A view is emerging among the tax authorities that such charges are towards provision of a separate service and hence, should be subject to full rate of service tax	• Activity undertaken by the airlines has an inextricable link with the provision of the main service of transport of passenger, which is subjected to the abated rate. Hence, a suitable clarification should be issued for applicability of abated rate on such miscellaneous charges as well
3.	Settlement of dispute against the director/ manager Section 78A of Finance Act provides for settlement	• It is a stringent measure and can be misused • Recommend that the benefit should be extended to the director or managers etc. once the disputed amount is accepted and paid by the company along with applicable interest and penalty. It should not be

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	of dispute against the director, manager etc. where the company has accepted liability and paid duty, interest and reduced penalty) - It is clarified by way of explanation that where proceedings against a company under section 73 of the Finance Act have been concluded on payment of service tax and interest within a period of 30 days of the receipt of show cause notice (in terms of section 76 or section 78 of the Finance Act), the proceedings in relation to personal penalty on the directors, managers, secretary etc. of the company under 78A of the Finance Act will also be deemed to be concluded	restricted to payment of service tax and interest within a period of 30 days of the receipt of show cause notice.
4.	Place of provision of services – intermediary services Support services for goods and services to recipients located outside India on a principal to principal basis should be governed by Rule 3 and not Rule 9 Disputes have arisen and benefit of exports are denied to several service providers who provide services to foreign service recipient on a P2P basis.	• It is suggested that the scope of intermediary services should be clarified in detail so that this interpretational issue does not lead to more litigation.
5.	Point of taxation for Swachh Bharat Cess Post imposition of SBC w.e.f. 15 November 2015, CBEC issued FAQ providing clarifications on levy of SBC including point of taxation. It was clarified to be Rule 5 of the POT Rules, 2011.	• This would reduce the ambiguity and consequent litigation. • Clarification is misinterpreted to infer that SBC to also be levied to outstanding balances as on 15 November even if the services have been rendered and invoice issued before 15 November. • Similar issue was addressed for KKC by issuing specific notification. Similar clarification should be provided for SBC as well.
6.	Uniform treatment for levy of Swachh Bharat Cess ('SBC') and Krishi Kalyan Cess ('KKC') While credit of KKC is available, credit of SBC is not eligible and hence a cost.	• Non availability of credit leads to higher cost of services to end-customers. • Recommend that the credit of SBC should also be available as in the case of KKC. Both SBC and KKC are in the nature of cess as service tax, therefore, uniform treatment should apply in both cases.
7.	Credit availment in case of works contract	• This would provide a fair methodology to the assessee. • Suggest such restriction is unreasonable especially when the contractor is

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	Service tax (Determination of Value) Rules, 2006 provides for restriction on availment of Cenvat credit belonging to inputs (Explanation 2 to Rule 2A).	following the valuation under actual method. Even in case of abatement method, the credit should be allowed. In comparison with VAT laws, where similar valuation methodology is followed, credit is restricted only in case of composition scheme. There is no restriction when actual method or abatement method is followed. But in service tax, there is no composition scheme as on date. Therefore, the credit on inputs should also be available.
8.	<u>Payment of invoice within three months for availment of credit</u> As per 3rd proviso to rule 4(7), in order to avail the credit of service tax, the payment for the services and service tax thereon has to be made within three months from the date of invoice.	• It is a very difficult position as in normal trade practice the invoices for services provided are not paid within three months. This leads to excessive monitoring and compliance. • Suggest that the provision be relaxed to allow for credit if the payment for services and service tax has been made within six months from the date of invoice, instead of three months.
9.	<u>Service category based registration to be removed</u> Registration provisions under service tax require the assessee to register for various service categories in which he is dealing. Therefore, the assessee has to amend the service tax registration certificate time and again to incorporate new service category as a provider or receiver of said service.	• Frequent amendments to the existing registration to incorporate new services, increases administrative burden on the assessee and departmental officers without any value addition. • Recommend that assessees be provided with facility for self-declaration and certification under ACES for any addition of new service category. Automatic system approval should be introduced for addition or deletion of service category.
10.	<u>Requirement to submit documents in hard copies for obtaining/amending service tax</u> While there is a specific list of documents that ought to be submitted, the same is not enough considering each officer/ authority needs to be checked with if he requires additional documents.	• Results in not only usage of paper but also time and effort in their submission • Suggest to keep the practice across officers/ authorities' uniform and the usage of paper submissions in physical form can be minimized by allowing the assessee to upload the soft copy of supporting documents.
11.	<u>Recognition of date of submission of the return as the date of filing</u> Usually the return is accepted by the ACES portal after 1 business day of uploading, leading to rejection of returns uploaded on the penultimate/last date of submission.	• There are late fees implications on grounds of delay in filing of return due to non-acceptance by the system, which is beyond assessee's control. • Suggest that once a return is uploaded and "submitted" the same should be considered to be "filed" immediately.

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12.	Requirement of filing annual returns under Rule 7(3A) of Service Tax Rules, 1994 and Rule 12(2)(a) of Central Excise Rules, 2002 Union Budget 2016 introduced an additional requirement of filing 2 annual returns (Service tax and CENVAT Credit) by November 30 of succeeding financial year.	• No format has been prescribed so far for such annual returns. • It is not clear that limitation period will be counted from date of annual return or date of half yearly returns. • It is not clear that whether date of filing of this return will have any significance while calculating limitation period under section 75 of Finance Act, 1994. • Suggest that the format of the annual returns may be made publically available at the earliest so as to allow companies to collate data in the required manner.
13.	Service tax refund related issues: • The disbursal of refunds goes on for prolonged periods thereby distressing the assessee and causing financial crunch to them. • The refund is rejected on absurd grounds due to which the assessee is left with no other option but to appeal before the Tribunal Authorities	• Litigation on this front needs to be reduced to speed up refund processing • Suggest that strict timelines be followed for speedy disbursal of refunds • Suggest that interest rate should be scaled up in case of delay in remitting refunds beyond the prescribed time frame • Department should not base their adverse refund order on frivolous grounds, due to which litigation starts getting accumulated at the various appellate forums.
14.	Rebate of SBC should be aligned with service tax refund Notification No. 39/2012-ST dated 20 June 2012 as amended vide Notification 03/2016-ST dated 03 February 2016 provides for filing of SBC declaration to claim rebate of Swachh Bharat Cess by service exporters.	• Such alignment would reduce compliances for both the assesses and authorities. • Requirement to first file a SBC declaration and then separately file for rebate leads to dual compliances. Secondly, revenue authorities are not familiar with the process to be followed. Therefore, the process should be aligned with service tax refunds.
15.	Requirement of Certificate from a Statutory Auditor for obtaining speedy refund by exporters of services under Circular No. 187/6/2015-Service Tax dated 10.11.2015 vide F. No. 137/62/2015-Service Tax.	• Such strict condition makes a beneficial circular completely redundant. Companies are incurring huge costs for procuring the certificate from their statutory auditor. • Recommend that the condition of providing a statutory auditor's certificate should be replaced with a certificate issued by any Chartered Accountant.
16.	Auditor's format for refunds A recent Circular dated June 15, 2016 issued by Service Tax Wing of CBEC addressed the delays caused on account of format in the auditor's	• This would ease the processing of claims and would reduce the time lag as well. • A similar Circular should be issued for original refunds filed under Notification No. 27/2012 dated 18 June 2012 since, revenue authorities insist on word by word matching of the certificate with the format

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	certificate. Accordingly, some flexibility was granted in the language used by the auditors. However, this Circular referred to only provisional refund of 80% under Circular no. 187/6/2015 and not for the original refund claims.	prescribed in the notification which is not possible owing to stringent ICAI guidelines.
17.	<u>Safeguards against invoking the extended time-limit of 5 years for demanding disputed duties and taxes</u> The service tax laws permit the tax officers to raise a demand for a period of past 5 years in case any short levy is noticed because of a wilful mis-declaration, collusion or fraud on the part of the assessee. In normal cases, the demand can be raised for a period of past 30 months. It is observed that the officers invoke mis-declaration / fraud etc. as a matter of routine and issue show cause notices demanding duties and taxes for the past 5 years. <u>Normal period of limitation should be restored to earlier limits</u> Increase in limitation period for recovery of service tax vide Section 73 of Finance Act 2016 (*pari materia* with Section 11A of Central Excise Act and Section 28A of the Customs Act), the limitation period for recovery of tax/duty not levied or paid or short levied or short paid or erroneously refunded by a revenue authority has been extended to the following periods: • Service tax- 18 months to 30 months Central excise and customs- 18 months to 24 months (2 years)	• Even though of the Finance Act, 1994 (as well as CE Act and Customs Act requires the extended period of 5 years to be invoked for issuance of show cause notice, it is observed that such concurrence is granted by the senior officers routinely without carefully examining the merits of the case. Relief in such cases is granted only when the matter reaches the Appellate Tribunal in appeal. • Suggest that appropriate safeguards be provided to prevent invocation of the extended period of demand in a routine manner. • The increase in limitation period in cases where there is no fraud, suppression etc. caused a major setback to bona fide cases and has led to increase in litigation. • The limitation period of 18 months in case of no fraud, suppression etc., on part of the assesse should be restored.
18.	Exemption limit for Small Scale Service Providers	• It is recommended that the basic exemption limit for the chargeability of Service tax be increased from 10 Lacs to 25 Lacs. • Increasing the exemption limit will reduce paper work to a large extent.

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		Further it will also eliminate the wastage of human man power to monitor these small service providers.
19.	Service tax on ocean freight paid for import of goods into India.	• The entry in the Negative List that covers 'services by way of transportation of goods by vessel from a place outside India to the first customs station of landing in India' has been removed from 1 June 2016. Hence, ocean freight for import of goods would be subject to Service tax @ 4.5% (after abatement). • • It must be noted that freight is to be included in the value of goods and is liable to Customs duty. • • It is recommended that the Service tax on ocean freight should not be levied so to avoid double taxation on the same component.
20.	**Rule 5 of the POTR** Duration of 14 days for issuance of invoice prescribed under Rule 5 of Point of Taxation Rules, 2011	• It is recommended that time limit for issuance of invoice of fourteen days from the date when the service is taxed for the first time should be changed to thirty days to bring it in parity with the other provisions under the Service tax law i.e Rule 4A of the Service Tax Rules, 1994.
21.	**Sl. No. (vi) of Notification No. 9/2016** Service tax- Exemption on specified services relating to monorail and metro.	• Exemption to construction, erection, commissioning or installation of original works pertaining to monorail or metro has been withdrawn in respect of contracts entered into on or after 1st March 2016. This was an important amendment focused on developing the commercial infrastructure of the country. Withdrawal of this exemption will increase costs involved in such projects substantially and may have a negative impact on infrastructure development. • It is recommended that such exemption be reinstated to promote development of necessary infrastructure in line with the growth initiatives of the Government
22.	Rule 6(3) of the Service Tax Rules, 1994 (STR) does not cover situation wherein service provider waives the recovery of service fees on account of genuine business reasons post issuance of invoice by the service provider.	• The service tax credit should be allowed under Rule 6(3) of STR, 1994 in case of waiver of recovery of service fees for any business reasons. • The service provider would need to pay service tax on raising the invoice though he has not received service tax/fee amount from clients. • The non-grant of service tax credit under Rule 6(3) of STR, 1994 in genuine cases would result into loss to the service provider and affects the cash flow of the service provider. •
23.	Vide Budget 2016-17, the Central Government has reduced the interest rate of service tax. The interest rate on delayed payment of service tax is	• Such high rate of interest is unwarranted and unjustified, particularly when on refunds due to assessee only 6 % p.a. rate of interest is provided in the law.

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	proposed to be made uniform at 15% except in situation where service tax was collected but not deposited with the Central Government and in such case, the rate of interest will be 24% from the date on which the service tax payment became due. The interest rate applicable on refund of service tax is very low @ 6 % p.a.	• Interest is to be levied only to compensate the loss to the revenue due to delayed payment of tax by the assessee. • Therefore rate of interest should be further reduced at 12 % p.a. irrespective of any period of delay. • Alternately, bring the interest rate on refund of service tax at the same level (15 % p.a).
24.	Service tax is being levied on courier services performed for transportation of goods to a place outside India.	• Rule 10 of the POS Rules should be suitably amended so that the place of provision of service in case of mail/ courier is also based on the destination of goods. The words "other than by way of mail or courier" should be deleted from Rule 10 of POS Rules. In view of the above proposed amendment, Rule 10 of the POS Rules would become applicable to courier services instead of Rule 4. It will also bring parity in tax treatment towards freight forwarders and courier service providers with respect to same set of services i.e. transportation of goods from India to a place outside India.
25.	Payment of Service tax under reverse charge is not allowed by utilizing CENVAT credit to exporters	• Since the payment of Service tax under reverse charge is "revenue neutral", the exporter should be allowed to pay such tax through CENVAT credit with appropriate mechanism to re-credit the same under Credit rules. This will help exporters to reduce the cash outflow and cost of compliance.
26	The seed companies are engaged in the production and processing of seeds which are sold to farmers. For carrying out the above activity, currently, seed companies incur a Service tax of 15% on various inputs services utilized for the	It is suggested to: • expand the list of Negative List of agricultural services to specifically cover the key services availed and utilized by the seed companies in relation to development/ commercialization / sale of seeds viz., agricultural operations involving the transfer or licensing of technology

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	growing and processing of seeds. Any levy of Service tax on inputs used to produce good quality seeds, enhance the intrinsic cost of seeds substantially. This works contrary to the well intentioned measure of government to minimize the cost of agricultural inputs. The negative list for the services relating to agriculture which are input services availed and utilized by the seed company must include the services for agricultural operations involving the transfer or licensing of technology (including licensing of seeds/parental lines, breeding/molecular breeding services and development of seed through biotechnology/other technologies)	(including licensing of seeds/parental lines, breeding/molecular breeding services and development of seed through biotechnology/other technologies). also make consequential amendment in the Declared Services to exclude the services for agricultural operations involving the transfer or licensing of technology (including licensing of seeds/parental lines, breeding/molecular breeding services and development of seed through biotechnology/other technologies) from the "Temporary transfer or permitting the use or enjoyment of any intellectual property right" amend point d of the negative list to expand the exemption to various agricultural research activities carried out at laboratories and other suitable locations. amend point d (iii) of the negative list to expand the exemption to the specified agricultural processes carried out even at a place other than agricultural farm.
27.	In most of the states, the transfer of right to use intellectual property is liable to Value Added Tax (VAT) at the rate varying from 4% to 15%. Such transaction of transfer of intellectual property is covered under the definition of 'deemed sale' provided under article 366(29A)(d) of the constitution of India.	• There is dual levy of tax i.e. VAT as well as service tax on the same transaction. However, such dual levy is contrary to both, the Constitution of India and the various decision rendered by the Hon'ble Supreme Court which states that there can be only single levy of tax. • Thus, it is requested to provide clarification on levy of either service tax or VAT on such transaction of transfer of right to use/permitting to use or enjoyment of any intellectual property right.
28.	Revision of Service Tax Return	• As per Rule 7B, an assessee may submit a revised return in Form ST-3 within a period of 90 days from the date of submission of the return under Rule 7. 1. It is suggested to clarify that whether revised return may again be revised. 2. It is also suggested that time limit for revision of return be increased to 180 days considering the closing of financial accounts of the assessee and audit of the same by 30th September of the next financial year.
29.	During the course of employment, a number of facilities are provided by an employer to the employee and no respective exemption given under Service tax.	• Levy of Service tax is posing lot of administration & compliance issue for the entire industry. Raising the service tax invoices, maintaining records for all such petty amounts recovered/ deducted from the employee's salary is a cumbersome task It is suggested that suitable amendment be made in the definition of

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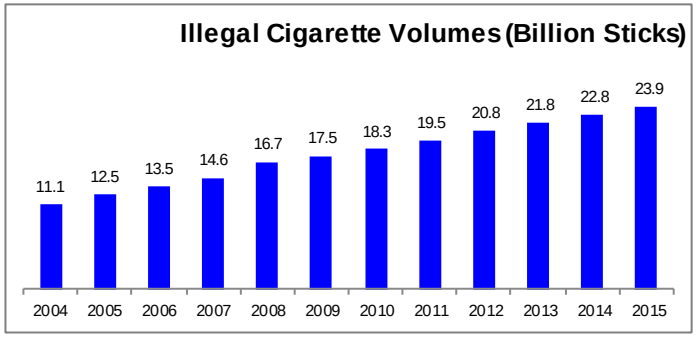
		'service' under Section 65B(44) of the Finance Act, 1994 to exclude the services provided by the employer to the employee
30.	All appeals are required to submit a proof of payment of pre-deposit @ 7.5% or 10% as the case may be and this pre-deposit which carries interest @6% payable by government.	• It is suggested that there shall be a provision of paying mandatory pre-deposit through bank guarantee should be allowed under Section 35-F of Central excise act, 1944 and pari materia sections under Customs and Service tax should also be provided
31.	Presently, Excise and Customs duty concessions are granted for parts used for manufacture of Wind Operated Electricity Generators (WOEG). However, no such exemption is available on services used in or in relation to manufacture of WOEG.	• It is suggested that Service tax should either be exempted on the services used in or in relation to manufacture of WOEG or allowed as a Cenvat credit in order to provide a further boost to the renewable energy sector.
32.	In Rule 2A(ii) of the Service tax (Determination of Value) Rules, 2006: The term *'total amount'* has been defined as an explanation to the said rules, however following is not clear: a) In case of divisible contract with separate price for equipment (Supply Contract) and for installation & commissioning services (where scope includes both goods and services e.g. civil work scope, cabling, etc), doubts are raised that while value of equipment contract will be added but the same will not be deducted as per clause (i) of the definition of *'total amount'* b) Whether the value of equipment / goods provided FOC by the customer (and the same was not earlier sold by the contractor to the customer) is to be added	• Suitable clarification should be issued: a) For value of the equipment contract - If the same is added then the fair value of the said Equipment should also be excluded {as per clause (i) of the definition of 'total amount'} since the equipment contract is a contract for sale of goods and the value of the same should not be considered into the tax base for calculating the Service tax. Suitable clarification should be issued in this regard. b) Value of goods provided by the customer free of cost, where such goods were not supplied by the Contractor earlier, should not be included while determining the value 'total amount' of works contract under the Rules. Suitable clarification should be issued in this regard.

Excise

S. no.	Issue	Justification
1.	Currently, the due date of payment of service tax and excise duty is 6th of following month and 31st March for the month of March.	Assessee faces following practical difficulties for adhering to the timelines: • Reconciliation of monthly accounts and computation of service tax/ excise duty liability by 5th of following month • In certain cases where assessees have multiple branches/ offices and centralised registration, it is difficult to collate all data by the due date. • It is recommended that the due date for payment of service tax and excise duty may be extended till 15th of following month.
2.	Filing of ER-2 returns by the STPI units	The requirement of filing ER-2 returns by STPI units leads to dual reporting where: • The assessee is majorly a service provider; • Goods, if any, are procured for self-consumption; • no exemption from excise duty is claimed; • where details of procurements/ sales and duty paid thereon is reflected in service tax and respective VAT returns
3.	Definition of exempted goods as per rule 2(d) of CENVAT Credit Rules, 2004 (CCR)	• There are instances of department demanding payment of duty or amount under rule 6(3) of CCR on goods on which job work is carried, treating the same as 'exempted goods' which is unwarranted. • Goods manufactured by a job worker are exempt from payment of whole of the duty of excise under Notification No. 214/86 CE subject to the condition that the Principal Manufacturer (supplier of raw materials or semi-finished goods) uses the job worked goods in or in relation to the manufacture of the final products in his factory or removes from his factory without payment of duty in specified cases. • It is suggested that the definition of 'exempted goods' in rule 2(d) be amended to clarify that goods produced or manufactured on job work basis where the principal manufacturer is under the obligation to pay duty on such goods will not be construed as 'exempted goods'. This would avoid multiple incidence of duty on the same goods and avoid unnecessary litigation. •
4.	Rule 16 of the Central Excise Rules 2002 (Credit of duty on goods brought to the factory)	• This rule allows availment of credit as per CENVAT Credit Rules, 2002 which is a typographical error. Further, the rule provides for 1 year time limit for availing credit. • CENVAT Credit Rules, 2002 should be rectified to Cenvat Credit Rules, 2004. Further, 1 year time limit for availing credit should not apply to cases covered under this rule. •
5.	Enhancement in threshold limit of Small Scale Industries ('SSI') under Central Excise laws	• At present, the threshold limit for SSI under Central Excise Laws is prescribed under Notification No. 08/2003 dated 01 March 2003 as INR

<table>
<tr><th>S. no.</th><th>Issue</th><th>Justification</th></tr>
<tr><td></td><td></td><td>1.5 Crores in a Financial Year.
• It is recommended that with the growing economy and the tremendous potential of the Indian markets and India becoming a hub for manufacturing of various goods, thus, the threshold limit for the SSI units should be enhanced. This could also boost the ‘Make in India’ campaign.</td></tr>
<tr><td>6.</td><td>Input service distributor (‘ISD’), ISD has been enabled to distribute credit to an outsourced manufacturing unit. Credit received by outsourced manufacturing units shall be used for payment of duty on goods manufactured for the ISD concerned. However, clarity is required if outsourced manufacturing unit can also distribute credit to another independent unit engaged in relation to the manufacture of goods concerned.</td><td>• Suitable clarification regarding the extent of distribution of credit should be provided, in order to avoid any ambiguities or inconsistencies in interpretation of the provision.</td></tr>
<tr><td>7.</td><td>• <u>Inverted duty structure-</u>
(Output duty payment is less than the duty paid on inputs)
With the reduction in rate of output excise duty from 10.3% to 6% on baby diapers over a period of time, the product now suffers from an inverted duty structure - key raw materials & services used for diaper manufacture suffer a higher rate of duty.</td><td>• <u>Correction in duty structure applicable on raw material used for production of diapers</u> by bringing down or reducing the CVD on import of the raw material/ packing material (RM/PM) as well as the excise duty on locally manufactured raw materials at par with the output duty (6%) Thereby narrowing the cause which has led to a higher accumulation of credit. List of major raw material which bear a higher rate of import duty/ excise duty and are used in manufacturing diapers is as below:
<table><tr><th>HS Code</th><th>Description of the product</th></tr><tr><td>56031100</td><td>Non-woven</td></tr><tr><td>39069090</td><td>Super Absorbent Polymer</td></tr></table>Details of quantum and value of CIF imports as available in public domain is
 
Annexure A.doc
enclosed as Annexure A.</td></tr>
</table>

S. no.	Issue	Justification
		• The inverted duty structure has resulted in accumulated CENVAT credits to the manufacturer. Such accumulated credits may be allowed to be refunded in cash.
8.	• High cigarette taxation impacting legal duty paid industry, feeding illegal sales, and impacting government revenues. • To Prevent trading by avoiding discriminatory tax treatment in Cigarette Industry. • Complex multi-tiered tax structures create loopholes and are difficult to administer under Cigarette Sector	• Successive high increases in cigarette taxation have resulted in a steep price increase of cigarettes making them more and more unaffordable. • From the year 2012-13 to 2016-17, the cumulative impact of tax increases on cigarettes has been 118% (Source: TII) which is much more than the cumulative increase in inflation. This has caused the legal cigarette industry to shrink by 22% from approximately 110 billion sticks in 2011/12 to about 86 billion sticks in 2015. However, this does not imply that overall cigarette consumption has reduced, since the reduction in legal volumes has been more than made up by a corresponding increase in the sale of illegal cigarettes, as we as consumers shifting their consumption to cheaper alternatives of tobacco. • According to Euromonitor International, the illegal cigarettes market has almost doubled over the last decade from 12.5 billion sticks in 2005 to 23.9 billion sticks in 2015.  • A recent study by India's leading industry association FICCI titled 'Illicit Markets – Threat to our National Interests' estimates that the overall market for illegal cigarettes (which includes domestically manufactured tax evaded cigarettes) in India at 20.2% of the cigarette industry, having grown from 15.7% in 2010, resulting in a revenue loss to the government of the order of Rs 9,139 crores.

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In fact, the government itself is well aware and has acknowledged the growing menace of illegal cigarette trade –

The Minister of Commerce in her reply to the Lok Sabha starred question no. 305 dated 8th August, 2016, stated that "The total number cases of smuggling of cigarette detected by field formations of the Customs across the country during 2014-15 was 1312 with a value of Rs.9246 lakhs and during 2015-16 the number of cases was 2731 with a value of Rs.16162 lakhs."
The table below clearly depicts that during the years when the excise duty rate CAGR was moderate, the excise revenue CAGR for the government was high, but as the tax increase became excessive in recent years the revenue collections have dropped.

<table>
<tr><td>Period</td><td>Excise Duty Rate CAGR (%)</td><td>Excise Revenue CAGR (%)</td><td>Volume CAGR (%)</td></tr>
<tr><td>2003/04 to 2006/07</td><td>5.7</td><td>12.5</td><td>6.5</td></tr>
<tr><td>2007/08 to 2011/12</td><td>9.9</td><td>10.3</td><td>0.6</td></tr>
<tr><td>2012/13 to 2016/17 (est.)</td><td>17</td><td>8.1</td><td>-5.2</td></tr>
</table>
(Source: Cigarette industry clearances and Excise duty paid; TII)

Moderate, stable and predictable tax increases is amongst the most effective means of increasing tax revenues as well as widening the tax base.
India is perhaps the only country in the world where the tobacco consumption and revenue generation is as skewed as it is currently – legal duty paid cigarettes account for only about 11% of the total tobacco consumption whereas the balance 89% or so tobacco is consumed in other forms such as bidis, chewing tobacco etc. Conversely, the revenue collection for the government from the cigarette sector is 87%. The single reason for this lopsided consumption and revenue collection pattern is that cigarettes are subjected to extremely high and discriminatory taxes compared to other tobacco products.
Such high taxes on only one segment of the industry (i.e.

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S. no.	Issue	Justification
		cigarettes) eventually forces consumers to shift their preferences to cheaper alternatives that are either illegal (domestic non-duty paid or illegal) or are simply more inefficient and worse forms of tobacco consumption e.g. gutkha etc. This also defeats the government's objectives on tobacco control. • Complex, tiered tax structures are difficult to administer and can undermine the health and revenue impacts of tobacco excise taxes. Overall, 37 of 158 countries that levy cigarette excise taxes (and where data are available) use complex, tiered taxes that lead to greater variability in tobacco product prices (Source: WHO report on the global tobacco epidemic 2015, Page 35). Large price gaps between brands create opportunities for consumers to switch to cheaper brands in response to increased taxes. They also create opportunities for tax avoidance and tax evasion. • In recent years, a growing number of countries have moved to simplify their complex tobacco tax systems (Source: WHO report on the global tobacco epidemic 2015, Page 35). • The government should seek to narrow the tax gap between cigarettes and other tobacco products to support its revenue collections as well as to eliminate the incentive for consumers to down-trade.
9.	Excise Returns	• Revision of excise returns is currently possible only within the calendar month of filing of the return. This period should be extended to at least 2 to 3 months. Comparatively State VAT laws have 6 months period for revision of sales tax returns.
10.	Packaged drinking should be put in the NIL or near concessional duty categories. However, if the Government, on account of revenue consideration, is not able to remove the excise duty completely, it may look at reducing the excise duty in a calibrated manner and in the first stage Excise duty may be brought down to 4% or 6% and taken to NIL Excise duty next year.	• There are several food items that are exempt from the levy of excise duty, this decision was taken recognizing the fact that food processing sector needs to be encouraged to grow. The facility so extended should be continued as the revenue implications on the same are very minimal • It is thereby suggested that the GOI shall reduce Excise duty on mineral water to NIL or near concessional duty categories, primarily to encourage such sector to grow and to focus on eliminating health concerns.
11.	With a view to encourage the Fruit and Agro Industry, 'Fruit pulp based drinks' falling under Chapter 22 was exempt from duty. As a corollary, intermediate goods captively used	• It is therefore suggested that exemption under notification 10/96 dated 23 July 1996 may be suitably amended and aligned with the tariff to read as 'fruit pulp and fruit juice based drinks'. We also

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	in the manufacture of above products were also exempt from duty vide Notification No. 10/96 dated 23 July 1996. Thereafter, in view of the confusion between 'fruit pulp' & 'fruit juice' based drinks, the entry under Chapter 22 was amended w.e.f 19 May 1997 to include 'Fruit pulp or fruit juice based drinks'. However, corresponding changes were not made in the intermediate goods exemption which continued to refer to 'Fruit pulp based drinks' only.	request that a suitable notification be issued under Section 11C to safeguard the interest of the industry for the past period.
12.	Higher excise duty incidence on manufacture of e-readers	• A rationalization of excise duties for e-readers in line with smart phones/ tablets would further drive foreign players to start manufacturing these devices locally in line with the Make in India campaign. This will further reduce India's dependence on imports for electronic products; create employment opportunities in the IT sector, and revive the hardware manufacturing industry in India. It is thereby recommended that under these circumstances, Notification 1/2011 Central Excise should be amended to include e-readers.
13.	Clause (a) of Entry No. 239 of Notification 12/2012-CE grants exemption from excise duty on Water treatment equipment which use Ultra Filtration technology for water purification. The list of raw materials mentioned in the above entry does not include "polyvinylidene difluoride (PVDF) membranes" which is a superior quality raw material capable of giving better results than the other two raw materials	• Not including PVDF membrane in the eligible raw material list is adversely affecting the industry since PVDF being widely used in Water treatment plant. Entry no. 239 (a) of Notification 12/2012-CE should be amended to include PVDF membranes also as a qualifying raw material for granting excise duty exemption on Ultra filtration water treatment equipment
14.	**S. No. (xxv) of Notification No. 12/2016 – Central Excise** The Customs law already provides concessional custom duty on import of raw materials for the manufacture of blades for rotor of wind operated electricity generators or parts and sub-parts of such blades. In Budget 2016, benefit of	• It is recommended that the excise duty exemption is extended to Chapters 28 and 29 also by adding them by adding them in column 2 of S. No 372A of Notification No. 12/2012 - Central Excise. • This will make the domestic manufacturers competitive to the importer of raw material used in manufacture of rotor blades.

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	concessional rate of excise duty is provided for goods falling under chapter 38, 39 or 68 used in manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades, for wind operated electricity generators. But the basic inputs for manufacture of rotor blades fall under Chapter 28 and 29; and they are not included in the above excise exemption.	

CENVAT Credit

S. no.	Issue	Justification
1..	The provisions contained in Rule 3(7)(b) of the Cenvat credit Rules, 2004 specifically provides that the credit of Education Cess (EC) and Secondary and Higher Education Cess (SHEC) can only be utilized against the liability of EC and SHEC respectively and the same tends to result into higher accumulation of EC and SHEC credits.	• Issuance of notification/amendment has addressed (to certain extent) the concerns faced by service but fails to elucidate some other concerns like credit balances of cesses lying unutilized as on 31st May 2015 and balance fifty percent of cenvat credit of cess paid on capital goods received in the premises of service provider prior to FY 2014-15. • It is strongly recommended that enabling provisions should be incorporated in Rule 3 of the Cenvat Credit Rules, 2004 allowing utilization of credits of EC and SHEC for payment of service tax without any restriction
2.	Companies setting up new factories are thus not permitted to avail CENVAT credit on cement, iron, steel, plates etc. either as part of civil structure or supporting capital goods (machines etc.). It results in Increased cost of construction. This provision goes against the very spirit of CENVAT.	• It is suggested that definition of input be amended to provide CENVAT credit on capital structures etc.
3.	Telecom tower industry is compelled to use diesel in DG sets for continuous power supply back up to ensure 24x7 operation of the telecom network in the country. Excise duty charged on diesel is quite substantial and hence, a significant cost in operation of telecom towers. Clarification on CENVAT credits on inputs used in erection of tower.	• Permission to avail CENVAT credit on excise duty paid on diesel will reduce the cost structure for telecom towers and telecom operators • Inclusion of diesel in the definition of "inputs" in Rule 2(k) of CENVAT Credit Rules, 2004 for CENVAT purposes. The said amendment may be made for diesel used in operation of DG sets at telecom tower sites by telecom tower companies holding IP-1 registration issued by DoT • There is a lot of litigation regarding the availment of CENVAT credits on (inputs) angles, channels etc used in the erection of towers. Appropriate clarification may be issued so that the credits may be availed without

S. no.	Issue	Justification
		any hindrance.
4.	Sub-rule (5A) of Rule 3 CENVAT Credit Rules was substituted vide Notification No 12/2013-CE-(NT) dated 27.09.2013 The said amendment provides that in case the Capital Goods are cleared as waste and scrap by a manufacturer, then the amount to be reversed by him should be equal to the duty leviable on the transaction value. However, the Rule is silent in respect of similar clearance by an output service provider.	• It is suggested to amend clause (b), so as to bring an output service provider also on par with a manufacturer, by allowing the output service provider also to pay an amount equal to the duty leviable on transaction value on removal of capital good as waste and scrap. The amount to be paid on clearing capital goods (on which CENVAT credit has been availed) as waste and scrap may continue to be the amount equivalent to the duty liable on transaction value. • This is logical as a normal commercial person would scrap any plant and machinery only after fully utilizing the asset. It means that the cost of asset has been fully built in the assessable value of the final product.
6.	Ineligibility of CENVAT credit for other duties for payment of NCCD results in blockage of funds.	• It is recommended that Credit Rules should be appropriately amended to allow assesses to pay NCCD utilizing CENVAT credit of other duties.
7.	Sugar is presently subject matter of multiple tax levies i.e. enhanced basic excise duty (including additional duty of excise imposed in the past), Sugar cess and VAT. Sugar cess is being levied at Rs. 24 per quintal. Sugar cess is not creditable to manufacturers of food articles and beverages and therefore, levy of Sugar Cess leads to cascading effect of taxes and higher input costs.	• Allow CENVAT Credit of Sugar cess against output excise duty levied under Central Excise Act, 1944 by way of an amendment to CENVAT Credit Rules, or Exempt Sugar cess when sold to industrial consumers by issuing an exemption notification to this effect
8.	Non-availability of Cenvat credit on transportation, rent-a-cab, catering services.	• Necessary amendments to be made in the definition of Input Service as mentioned in Credit rules by specifically allowing the credit of services such as transportation of employees, rent-a-cab, catering which are availed in relation to the business activities.
9.	Rule 10A of the Cenvat Credit Rules, 2004 allows transfer of Cenvat credit of additional duty leviable under Section 3(5) of the Customs Tariff Act to another excise registered premises of the same manufacturer having common PAN. However there is no such provision for transfer Cenvat credit of CVD which is levied under Section 3(3) of the Customs Tariff Act.	• Provision should be made in the Cenvat Credit Rules allowing transfer of CVD to another excise registered premises in the same line with additional duty of Customs. This will help working capital management of the assessee to a great extent.

Customs

S. no.	Issue	Justification
1.	Exemption to plans, designs and drawings – Vide Finance Act 2016, Basic Custom duty ('BCD') exemption has been withdrawn from plans, design and drawings falling under chapter heading 49. Now it attracts BCD @ 10%.	• Presently, import of plans, designs and drawings attracts service tax under reverse charge. Levy of custom duty on same transaction would amount to dual levy. • It is suggested that exemption to plans, design and drawings falling under chapter heading 49 be restored.
2.	**Bills of Entry wise filing of Appeals** Once an SVB order is passed by the Department, the 'provisional' assessments of imports are automatically converted to 'Final'. In case the assesse is aggrieved by the SVB order and challenges it at higher forum, in the light of the divergent views on the issue, the assessee is left with no other option but to file appeal against each BoE before the first appellate authority. The filing of the separate appeals against each BoE is based upon the understanding that each BoE is considered to be a separate order of assessment. As per the judgment of Supreme Court in Priya Blue Industries Ltd Vs Commissioner of Customs (2004-TIOL-78-SC-CUS), a Bill of Entry is considered to be an order passed by the Customs officer. However, after the introduction of self-assessment procedure {Section 17 (w.e.f 8-4-2011)} under the Customs Act, the duty is determined and paid by the assessee himself. Under the present self-assessment regime, the self- assessed BoE cannot be considered as order of assessment for the purpose of filing appeals.	• There is still ambiguity on the fact whether an appeal can be filed before the first appellate authority against the self-assessed BoE (as existed in the earlier regime). As a matter of abundant caution the assessees are filing appeals before the first appellate authority leading to large pendency of appeals at various forums. • Appropriate clarification may be issued in order to clarify that filing of separate appeal against each BoE is not required after the introduction of self-assessment procedure. The Appeal at higher forum challenging the SVB order should be applicable on all BOEs filed post the date of SVB order. This will help in eliminating unnecessary burden on the assessee to file multiple appeals, the government machinery to maintain multiple appeal files and on the judiciary to adjudicate on each Appeal
3.	**Notification No. 12/2012 – Customs** Concessional rate of custom duty is allowed on parts and sub-parts of blades for rotor for wind energy generators while intermediates of such blades are not included in this exemption.	• It is recommended that the word "intermediates" be inserted at the beginning of point 5(b) of S. No. 362 of Notification No. 12/2012 – Customs. • This will create a uniformity among intermediates and parts, sub parts of such blades.
4.	**Sl. No. (xlix) of Notification No. 12/2016** Compliance with specified rules for imported products used in maintenance, repair and overhaul of aircraft and parts	• An exemption from basic customs duty is available on import of parts, testing equipment, tools and toolkits for maintenance, repair, and overhauling (MRO) of aircraft and parts thereof falling under heading 8802 by the units engaged in such activities.

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		• Vide this amendment, a condition has been inserted that such exemption is subject to compliance with Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 ('Concessional Duty Rules'). Please note that such rules have been prescribed from imported goods which are used in manufacture of excisable goods. The present exemption has been accorded to import of certain products by a service provider. • It is recommended that the condition for complying with Concessional Duty Rules be withdrawn in light of the fact that the present exemption is meant for service providers which are not engaged in any manufacturing activity.
5.	Customs and Transfer Pricing are based on arm's length principle, whose objective is to ensure that taxable values of imports are correct and taxes are paid appropriately on arm's length value. However, intention under both the regulations drives in opposite directions i.e. the Customs Cell would prefer to increase the import value of goods to increase tax while the tax department would prefer to reduce purchase price of goods to increase taxable profits. The diverse end-results create ambiguity and uncertainty in pricing.	• There is a need for harmonization between these two conflicting regulations. Guidance may be provided for acceptability of transfer prices by one arm of the government, in case the other arm had accepted the price at arm's length
6	Project Imports Goods imported are sometimes are to be sent for job work, testing etc. There are doubts surrounding such movement of goods.	• CBEC clarification / notification / circular is required to clarify explicitly that Goods imported under Project Import scheme will be allowed for job-work / testing /repairing etc. on returnable basis within 180 days / 2 years in line with existing CENVAT Credit rules. Similar facility should be extended also to goods imported under duty concession scheme such as EPCG. • Specific amendment required in Project Import Regulations / EPCG related Customs notifications / FTP considering the significant time lag involved in closure of project import / EPCG license redemption. Since the goods are sent on returnable basis, there is no revenue risk involved.
7.	EPCG Scheme Currently 75% of normal Specific Export Obligation (SEO) is prescribed in EPCG scheme for green	• It is suggested that to hybrid cars / smaller cars with higher engine efficiencies / lesser polluting cars and engines may be included in para 5.29 of FTP.

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	technology products. Electric vehicles (Motor cars) is already included in that list – Para 5.29 of FTP. Further, duty is paid upfront in Post-Export EPCG scheme, insisting for block-wise SEO fulfillment (similar to normal EPCG scheme) and payment of composition fees for non-fulfilment of SEO if any, is quite rigorous	• In case of Post Export EPCG scheme (where duty is paid upfront at the time of imports), duty scrip should be issued annually in proportion to actual exports made each year, to ease cash flows for the importer. • The conditions in Post-Export EPCG scheme should be relaxed. Need specific clarification in FTP / Customs notification to state that block-wise EO fulfillment is not required for Post-Export EPCG scheme.
8.	Currently, DYCC and other Lab at Customs Ports are not sufficiently equipped which causes delay in testing/ incorrect testing resulting in delay in issuing test reports as well as costing higher detention and Demurrage charges at Port for Importer	• Urgent upgradation in terms of manpower and testing capabilities at DYCC and other Customs Labs to facilitate testing of new complex materials. Same would facilitate 'Ease of Doing Business' in India. • It is suggested that the test reports should be provided by such Labs in a time bound manner. • In case of any delay due to complicated tests, provisional clearance shall be allowed to Importers under new proposed HSN code proposed by Importers on basis of undertaking by Importer. • It is also suggested that there should be a limitation on Demurrage and Detention charges caused due to delay in testing and issuance of test reports by Customs Labs.
9.	Higher duty rate applicable on Imports made to US from India resulting in less Exports. Agreement such as TPP would discourage 'Make In India' after several commitments by US companies for manufacturing in India	• Re-negotiate preferential rates of Customs duty with US and other developed countries for outflow of Exports from India and also inflow of technology and R&D activities into India • Such preferential duty rates rate would encourage 'Make in India' campaign as trade facilities are conducive to manufacturing
10.	The benefit of external warehousing facility is not available for all the inputs.	• The benefit of external warehousing facility should be extended to all the inputs irrespective of their nature. Further the authorities should grant approval for warehousing for a longer period of time keeping in view the regular business exigencies on a case to case basis.
11.	Import of inputs and capital goods attracts customs duties which includes CVD and SAD aggregating to 17% approx. for which CENVAT credit can be taken by manufacturers. Generally, the final product manufactured is liable to Excise duty at 12.50%. This difference of 5% (approx.) leads to accumulation of CENVAT credit.	• Accumulation CENVAT credit on import of inputs leads to blockage of funds. • It is recommended that the Credit Rules should be suitably amended to provide for refund of unutilized credit amount periodically to a unit at par with refund given to exporters.

Others

S. no.	Issue	Justification
1.	Complexity in Export Import processes and Licenses	• Simplify the process which is very cumbersome for advance licenses from DGFT, for refund of VAT & Basic Custom Duty • Simplify the system for claiming refund of Basic Custom Duty on Imports made for Exports which is currently complicated and slow. • Export Incentives and Refunds should be credited immediately and done online • It would help in reduction in cost and improvement in ease of doing Export Business.
